

PT 01-33

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**FOREST RIVER
BIBLE CHAPEL,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0012
(98-16-1112)
(98-16-1153)
P.I.N.S: 02-22-406-007
02-22-406-021**

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Steven Rogers, attorney at law, on behalf of the Forest River Bible Chapel (hereinafter the “applicant”).

SYNOPSIS: These consolidated proceedings present the limited issue of whether real estate identified by Cook County Parcel Index Numbers 02-22-406-007 and 02-22-406-021 (hereinafter collectively referred to as the “subject properties”) was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*) during the 1998 assessment year. The underlying controversies arise as follows:

Applicant filed two Real Estate Tax Exemption Complaints with the Cook County Board of Review (hereinafter the “Board”) on February 1, 1999. The Board reviewed applicant’s complaints and recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the requested exemptions be granted in part and

denied in part. The Department then issued two separate determinations finding that neither of the subject properties was in exempt use.¹

Applicant filed appeals as to both denials, which were consolidated for purposes of appeal, and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that: (1) the Department's determination as to parcel 02-22-406-007 be reversed *in toto*; but, (2) the Department's determination as to parcel 02-22-406-021 be affirmed in part and reversed in part.

FINDINGS OF FACT:

1. The Department's jurisdiction over these matters and its positions herein are established by Dept. Group Ex. Nos. 1, 2, 3.
2. The Department's positions herein are that the subject properties are not in exempt use. Dept. Group Ex. No. 4.
3. Applicant is a Christian church affiliated with the Plymouth Brethren, a Protestant order that originated in Plymouth, England nearly 300 years ago. Applicant Group Ex. No. 1, Doc. A; Tr. p. 19.
4. Applicant's congregation consists of approximately 135 persons and services a geographic region that spans throughout the greater Chicago metropolitan area and reaches into the western suburbs of DuPage County. Tr. pp. 20, 23.
5. Applicant does not have any paid clergy or staff. Its business affairs are managed by a volunteer board of directors, while its religious affairs are carried out by six separate committees (or "teams") of volunteer lay leaders. Applicant Group Ex. No. 1, Doc. A; Tr. pp. 20-23, 31, 33, 39.

1. The Department issued its determination as to parcel 02-22-406-007 on January 13, 2000 and its determination as to parcel 02-22-406-021 on January 21, 2000. Dept Group Ex. No. 2.

6. None of the lay leaders are ordained ministers or clergy persons in the traditional sense, although some do receive training at a seminary. Tr. p. 33.
7. Each of the six lay ministry teams assumes responsibility for administering a different aspect of applicant's overall religious mission, such as spiritual relations within the church itself or spiritual relations within the larger community. Applicant Group Ex. No. 2; Tr. pp. 22-23, 31, 33.
8. Applicant's main church, located in Mount Prospect and situated on real estate identified by Cook County Parcel Index Numbers 03-36-104-020 and 03-36-104-021, is exempt from real estate taxation pursuant to the determination in Docket No. 87-16-0817, issued by the Department's Office of Local Government Services on August 10, 1988. This exemption remained in full force and effect throughout the 1998 assessment year. Applicant Group Ex. No. 1; Doc. C; Administrative Notice; Tr. pp. 10-11.
9. The subject properties, commonly known as the Salt Creek campus within applicant's church community, are situated on real estate identified by Cook County Parcel Index Numbers 02-22-406-007 and 02-22-406-021 and located at 262 N. Michigan Ave, Palatine, IL 60067. Dept. Group Ex. Nos. 1, 2; Applicant Group Ex. No. 1; Tr. p. 23.
10. Parcel 02-22-406-007 consists of an unimproved, 238.60' x 596.20' lot that is located immediately adjacent to parcel 02-22-406-021. Dept. Group Ex. No. 2; Dept. Ex. No. 4; Applicant Group Ex. No. 1.
11. Parcel 02-22-406-021 is situated on a 100' x 596.40' lot and improved with a two facilities, one a 2-story, 600 square foot house (hereinafter the "house"); the other a 1

story, 600 square foot storage shed. Dept. Group Ex. No. 2; Applicant Group Ex. No. 1; Applicant Ex. No. 12.

12. Applicant obtained ownership of parcel 02-22-406-007 by means of a warranty deed dated July 3, 1996 and ownership of parcel 02-22-406-021 by means of a warranty deed dated September 19, 1996. Applicant Group Ex. No. 1, Doc G, F.

13. The house situated on parcel 02-22-406-021 was very dilapidated and required extensive repairs at the time of purchase. Applicant effectuated all necessary repairs and made extensive renovations to the house after it obtained title. Applicant Group Ex. No. 13.

14. Applicant entered into a standard form residential lease, whereby it demised the house to Jason and Kristin Campbell (hereinafter the “Campbells”), on January 15, 1997. Applicant Ex. No. 13.

15. Jason Campbell was chairman of the team responsible for overseeing the care of and implementing programs at applicant’s Salt Creek campus throughout 1998. Tr. pp. 18-20, 26.

16. Applicant entered into the residential lease with the Campbells because its governing body had determined that it would be advantageous to have congregants living at the Salt Creek campus so as to: (1) prevent the community at large from trespassing onto property that previously had been subject to much loitering and vandalism because it was vacant; and, (2) plan and conduct activities at the Salt Creek campus in a more efficient manner. Tr. pp. 26-27, 45-55.

17. Applicant’s lease with the Campbells provided, *inter alia*, that: (1) the lease was to run for an “open ended” term beginning January 15, 1997; (2) applicant could

terminate the lease at any time, but only if it provided the with Campbells 60 days notice of the termination; and, (3) the Campbells were to pay applicant rent in the amount of \$450 per month throughout the term of the lease. Applicant Ex. No. 13.

18. The Campbells resided in the house under terms of the lease throughout the 1998 assessment year. Applicant did, however, hold Ladies Fellowship meetings, picnics, fundraisers, team planning meetings, Sunday school field trips and numerous other church-related events at the house during 1998.² Applicant Ex. Nos. 5, 6, 13; Applicant Group Ex. Nos. 7, 8, 9; 10.

19. Applicant stored church-owned landscaping, snow removal and other equipment necessary for maintenance of the Salt Creek Campus in the storage shed. Applicant Ex. No. 11.

20. Applicant held a Thanksgiving day football game for church members, a Sunday school snow day party, a garage sale that raised funds for the church, a Christmas caroling event for families and numerous other church-related functions on the unimproved portions of the Salt Creek campus. Applicant Ex. Nos. 5, 6, 13; Applicant Group Ex. Nos. 7, 8, 9; 10.

2. The uses described in this and all subsequent Findings of Fact shall be presumed to be 1998 uses unless context clearly specifies otherwise.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting part, but not all, of the subject properties from 1998 real estate taxes under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.* Accordingly, under the reasoning given below: (1) the Department's initial determination as to parcel 02-22-406-007 should be reversed *in toto*; but, (2) the Department's determination as to parcel 02-22-406-021 should be affirmed in part and reversed in part. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* (hereinafter the "Code"), wherein the following are exempted from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the above-listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

35 ILCS 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

In this case, the relevant statute requires that the property in question be “used exclusively for religious purposes.” 35 ILCS 200/15-40. The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

It is well established that adjacent or satellite facilities, such as a the subject properties, can be exempted if applicant’s use thereof is “reasonably necessary” to

facilitate another specifically identifiable exempt use. Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991). However, if that satellite facility, or any other real estate, is used for multiple purposes and can be divided according to specifically identifiable areas of exempt and non-exempt use, it is proper to exempt those parts that are in actual, exempt use and subject the remainder to taxation. Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59, 64 (1971).

The subject properties can be divided into improved and unimproved areas. The improved areas consist of the house and storage garage situated on parcel 02-22-406-021 and the ground underlying these facilities, while the unimproved areas consist of the entirety of parcel 02-22-406-007 and those parts of parcel 02-22-406-021 that do not contain the house and the storage garage.

The record made at hearing clearly establishes that applicant used all of the unimproved areas for Ladies Fellowship meetings, church picnics and other functions that served various needs of its tax-exempt church. As such, applicant's use of all the unimproved areas was "reasonably necessary" to facilitate its use of that church. Therefore, the Department's determination as to all of the unimproved areas, which appears to have been based on a lack of information that applicant cured at hearing, should be reversed.

The record further establishes that applicant kept church-owned snow-removal, lawn care and other equipment that it used to maintain the subject properties in the storage shed. For this reason, applicant's use of the storage shed was "reasonably necessary" to facilitate its continued upkeep and use of the unimproved areas, which I have just concluded are in exempt use. Therefore, the Department's determination as to

the storage shed, which also appears to have been based on a lack of information that applicant cured at hearing, should likewise be reversed.

The above conclusions necessitate that the only remaining source of controversy herein is whether the house situated on parcel 02-22-406-021 qualifies for exemption under Section 15-40 of the Property Tax Code. That house does not qualify as a “parsonage” within the meaning of Section 15-40 because the persons who lived there, the Campbells, were volunteer lay leaders who oversaw the programs applicant conducted at the subject properties. As such, it does not appear that Campbells qualify as the type of employed clergy or “ministers” described in Section 15-40. Therefore, it seems more accurate to describe the Campbells as residential caretakers or groundskeepers.

Homes occupied by residential caretakers, groundskeepers and the like cannot be exempted from real estate taxation absent appropriate proof that either: (1) the residential caretaker or groundskeeper (a) performs an exempt function, such as educational or religious duties in the residence, and; (b) is required by those same exempt duties to live in the residence; or, (2) the residential caretaker performs his/her duties in furtherance of the institution's exempt purpose in the residential facility. McKenzie v. Johnson, 98 Ill.2d 89, 98 (1983); Benedictine Sisters of the Sacred Heart v. Department of Revenue, 155 Ill. App.3d 325 (2nd Dist. 1987); Lutheran Child and Family Services of Illinois v. Department of Revenue, 160 Ill. App.3d 420 (2nd Dist. 1987); Cantigny Trust v. Department of Revenue, 171 Ill. App. 3d 1082 (2nd Dist. 1988); Girl Scouts of DuPage County Council, inc. v. Department of Revenue, 189 Ill. App.3d 858 (1989).

Here, the Campbells occupy the home in question pursuant to a lease in which they hold the lessee's interest. Nothing in the terms of that lease specifically requires that the Campbells reside in that home. Hence, from a contractual perspective, the most applicant has proven is that it provided the Campbells with this home as a convenience.

Such convenience does not equate to the type of necessity required in the cases cited above. Lutheran Child and Family Services, 160 Ill. App.3d 420, 426 (2nd Dist. 1987). More importantly, applicant's rental receipts from the house, which amount to \$450.00 per month under terms of the lease, far exceed anything which can reasonably be considered nominal, *de minimus* or token rent. Therefore, in the absence of financial statements which clearly and convincingly demonstrate that this rental amount constitutes mere reimbursement for any maintenance or upkeep costs that applicant incurs for the house, applicant has failed to prove that the house was not "leased or otherwise used with a view to profit," as proscribed by Section 15-40.

Due to this failure of proof, there exists doubt as to whether the house was primarily used for: (1) church-related purposes that would qualify as exempt uses under Section 15-40; or, (2) purposes of producing income for the applicant-owner, which do not qualify as exempt uses as a matter of law. People ex. rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136, 140 (1924); Salvation Army v. Department of Revenue, 170 Ill. App.3d 336, 344 (2nd Dist. 1988). Applicant is not entitled to receive the benefit of that doubt as a matter of law. People ex rel. Nordland v. Home for the Aged, *supra*; Gas Research Institute v. Department of Revenue, *supra*. Therefore, the Department's determination as to the house situated on parcel 02-22-406-021 should be affirmed.

In summary, all of the unimproved portions of the subject properties qualify for exemption under Section 15-40 of the Property Tax Code, as do the storage shed and its underlying ground. However, the house situated on parcel 02-22-406-021 and its underlying ground do not so qualify. Therefore, the Department's determination concerning parcel 02-22-406-007 should be reversed *in toto*. However, the Department's determination concerning parcel and 02-22-406-021 should be: (1) affirmed as to the house situated thereon and its underlying ground; but, (2) reversed as to the storage shed situated thereon and its underlying ground; and, (3) reversed as to any and all unimproved areas situated on that parcel.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that:

- A. The entirety of real estate identified by Cook County Parcel Index Number 02-22-406-007 be exempt from 1998 real estate taxes under Section 15-40 of the Property Tax Code;
- B. Any and all of the unimproved areas situated on real estate identified by Cook County Parcel Index 02-22-406-021 be likewise exempt;
- C. The storage shed situated on real estate identified by Cook County Parcel Index 02-22-406-021, and its underlying ground, be exempt from 1998 real estate taxes under Section 15-40 of the Property Tax Code; but,
- D. The house situated on real estate identified by Cook County Parcel Index 02-22-406-021, and its underlying ground, not be exempt from 1998 real estate taxes under Section 15-40 of the Property Tax Code.

June 21, 2001
Date

Alan I. Marcus
Administrative Law Judge